IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 639 of 2005

Between:

Mohd.Azeemuddin, s/o late Qamaruddin,
R/o Chokkampet Village, Balanagar Mandal, Mahaboobnagar

District.

..... PETITIONER

AND

1 The District Collector, Mahaboobnagar District.
2 The Joint Collector, Mahaboobnagar, Mahaboobnagar District.
3 The Revenue Divisional Officer, Mahaboobnagar, Mahaboobnagar District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction more particularly one in the nature of WRIT OF MANDAMUS, to declare the impugned order of the 1st respondent in Case No.CS7/953/2004, dt.19-1-2005 as illegal, arbitrary, unconstitutional and violative of Article 19 and 21 of the Constitution of India and consequently set aside the order of the 2nd respondent dt.1-1-2005 in Case No.CS7/953/2004 and pass such other relief or reliefs.

Counsel for the Petitioner:MR.PALLENAGESWAR RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner was appointed as a fair price shop dealer, in respect of Chokkampet Village of Balanagar Mandal, Mahaboobnagar District, by the 3rd respondent through proceedings, dated 30.09.2004. Aggrieved thereby, one of the applicants, by name, Manchala Krishnaiah, preferred an appeal before the 2nd respondent. Through his order, dated 01.01.2005, the 2nd respondent allowed the appeal and set aside the order of the 3rd respondent dated 30.09.2004. He also directed the 3rd respondent to issue fresh notification for the purpose of appointment of a dealer. Petitioner filed a revision before the 1st respondent. The revision was rejected through order, dated 19.01.2005. Petitioner challenges the orders of respondents 1 and 2.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The 3rd respondent issued a notification, dated 03.09.2004, inviting applications for appointment of a dealer for the shop in question. Petitioner and several others applied. The 3rd respondent appointed the petitioner through proceedings, dated 30.09.2004. Except stating that the petitioner is appointed, the 3rd respondent did not indicate as to how many persons responded to the notification; much less did he indicate the relative merits of the applicants.

One of the applicants, by name, Mancala Krishnaiah, preferred an appeal before the 2nd respondent. On perusal of the record, the 2nd respondent found that the only basis for appointment of the petitioner was that his father functioned as a fair price shop dealer on an earlier occasion and his superior educational qualifications. The

2nd respondent expressed the view that father of the petitioner was imposed a punishment and the 3rd respondent did not exercise his powers properly. On this ground, he set aside the appointment. This order was confirmed by the 1st respondent in the revision.

A perusal of the order, dated 30.09.2004, passed by the 3rd respondent discloses that he did not evaluate the relative merits of the various applicants. The 2nd respondent has recorded definite findings after perusing the file. This Court cannot re-appreciate the same in a writ petition.

One aspect, which needs to be considered, is that after setting aside the order of appointment of the petitioner, the 2nd respondent directed that a fresh notification be issued for this purpose. Such a course is outside the scope of the appeal. The grievance of the appellant before the 2nd respondent was about non-consideration of his case. The fact that the appointment of the petitioner had suffered from any irregularity or illegality cannot constitute the basis to expand the scope of the very appointment process. Reconsideration of the entire matter by the 3rd respondent shall be confined to the applicants, who responded to the notification, dated 03.09.2004.

Hence, the writ petition is disposed of upholding the order of the 2nd respondent to the extent it has set aside the appointment of the petitioner, but deleting that portion of the order which directed the 3rd respondent to issue fresh notification. The consideration of the matter by the 3rd respondent shall be confined to those persons who responded to the notification, dated 03.09.2004. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 25-01-2005

Note: Office to issue c.c.

in three days.

(B/o.)

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To

1 The District Collector, Mahaboobnagar District.
2 The Joint Collector, Mahaboobnagar, Mahaboobnagar District.
3 The Revenue Divisional Officer, Mahaboobnagar, Mahaboobnagar District.

4 2CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

5 2CD copies